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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,020	03/19/2004	Scott R. Fisher	MFM-505	7784
7590	11/22/2005		EXAMINER	
Frederick H. Gribbell FREDERICK H. GRIBBELL, LLC Suite 120 10250 Alliance Road Cincinnati, OH 45242			BOSWELL, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3676	
			DATE MAILED: 11/22/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/805,020	FISHER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher Boswell	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-12 and 19-23 is/are allowed.
- 6) Claim(s) 13-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/26/04.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-15, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 4,838,052 to Williams et al., in view of U.S. Patent Number 6,304,003 to Rathmann et al.

Williams et al. discloses the invention substantially as claimed. Williams et al. discloses an electronic lock box apparatus (10) attachable to a fixed object (D), the electronic lock box apparatus comprising an electrical power source (106), a controller circuit (column 5, lines 50-55), a secure compartment (15) having an access member (12g) actuated by a first latch member (28), a holding member (14) actuated by a second latch member (44), an electric motor (64), and a movable actuator member (52) that is in mechanical communication with the electric motor, where the controller circuit is configured to attempt to move the actuator member in one of a first direction and a second direction by energizing the electric motor (column 6, lines 12-49), as in claim 13. However, Williams et al. does not disclose the use of a position sensing device.

Rathmann teaches of an electrically operated lock mechanism having a electric motor (1), an actuator member (4), and a locking mechanism (figure 1), where the locking mechanism has a means for detecting the position of the actuator (column 1, lines 53-65), where the means for detecting is a potentiometer (19) having a lever (column 6, lines 12-20) that is attached to a drive

mechanism, that send signals to a processing circuit (20) and a converter circuit (21) which indicates the functional position of the actuating drive, as in claim 14, in the analogous art of electrically operated locking mechanisms for the purpose of having evidence as to the functional position and also the intermediate position which the actuating drive or the transmission element have assumed, so that a plausibility check can be conducted on the basis of the detected position (column 1, lines 47-52). It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a position sensing device in to the electronic lock box of Williams et al., as taught by Rathmann, to provide position feedback information corresponding to an actual position of the actuator member, by attaching a lever to the actuator member, where, with position feedback information from the position sensing device, as the controller circuit attempts to move the actuator member, the position feedback is received by the controller circuit, which determines whether the actuator member is moving according to a predetermined movement pattern over at least one predetermined time interval, as well as if the actuator member is moving according to a predetermined movement pattern over at least one predetermined time interval, the controller circuit allows the electric motor to be energized until the actuator member has reached a predetermined position, and if the actuator member is not moving according to a predetermined movement pattern over at least one predetermined time interval, the controller circuit terminates energizing the electric motor, regardless of an actual position of the actuator member, wherein position feedback could sampled over a plurality of predetermined time periods, and the predetermined movement pattern comprises a plurality of position versus time criteria, within a predetermined tolerance (figures 4, 7, and 8 of Rathmann), as in claim 15, in order to have evidence as to the functional position and also the intermediate

position which the actuator member has assumed, so that a plausibility check can be conducted on the basis of the detected position.

Furthermore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to reverse the direction of the electric motor of Williams et al. to unjam the actuator member if the actuator member is not moving in a first direction, as in claim 17.

Williams et al. also discloses that when the controller circuit energizes the electric motor in an opposite direction, the controller attempts to move the actuator member back to its starting position (column 7, lines 51-57), as in claim 18.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. and Rathmann as applied to claim 13 above, and further in view of U.S. Patent Number 6,434,987 to Juillerat et al.

Williams et al. and Rathmann disclose the invention substantially as claimed. Williams et al disclose the electrical power source comprises a battery (106) that outputs a battery voltage. However, Williams et al. and Rathmann do not disclose an ambient temperature sensor. Juillerat et al. teaches of a motorized locking system having a motor (21), a motor actuation means and a sliding bolt (3) and a temperature sensor (column 3, lines 40-45) in the analogous art of electrically activated locking systems for the purpose of to send data to the motor actuation means in order to close the locking system in the event of intrusion by a blow torch attach. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a temperature sensor, as taught by Juillerat et al., in to the electronic lock box of Williams et al., as modified by Rathmann, where the sensor could send data to the control circuit

in order to adjust the predetermined time periods so that the actuator member can move to a locked condition in the event of intrusion by a blow torch attach.

***Allowable Subject Matter***

Claims 1-12 and 19--23 are allowed. The following is a statement of reasons for the indication of allowable subject matter: The claims are allowable over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that of an electric lock box having a controller circuit, a secure compartment having an access member actuated by a first movable latch member, a holding member actuated by a second movable latch member, a prime mover device, and a linear actuator where the controller circuit moves the linear actuator in a first direction by way of the prime mover device to release the access member, allowing access to the secure compartment, and the controller circuit also moves the linear actuator by way of the prime mover device in a second direction that is opposite of the first direction, to release the holding member, allowing the electronic lock box apparatus to be detached from a fixed object.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to electronic lock box assemblies:

U.S. Patent Number 6,047,575 to Larson et al., U.S. Patent Number 6,046,558 to Larson et al., U.S. Patent Number 5,794,466 to Hungerford et al., U.S. Patent Number 5,791,172 to Deighton et al., U.S. Patent Number 4,864,115 to Imran et al., U.S. Patent Application Publication Number 2004/0226325 to Ling.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB *CB*  
November 10, 2005

*Brian Glessner*  
BRIAN E. GLESSNER  
SUPERVISORY PATENT EXAMINER